

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff/Respondent,	§	
	§	
V.	§	CR. No. C-06-788
	§	C.A. No. C-08-289
PETAR SLAUKO IVIC,	§	
	§	
Defendant/Movant.	§	


**ORDER FOR GOVERNMENT
TO FILE SUPPLEMENTAL RESPONSE**

Pending before the Court is Defendant Petar Slauko Ivic's motion pursuant to 28 U.S.C. § 2255. One of his claims therein is that the United States breached his plea agreement by failing to make a motion for a downward departure based on his substantial assistance, or to file a Rule 35 motion after his sentencing. In its response, the United States argues that Ivic's claim is barred by his waiver of § 2255 rights and that it is procedurally barred from consideration because he did not raise the claim on appeal. The United States does not address the merits of the claim.

At sentencing, Assistant United States Attorney Booth indicated that Ivic was cooperating with the government and that she anticipated possibly filing a Rule 35 motion at some point after sentencing. To date, no such motion has been filed. Moreover, the United States' response to Ivic's § 2255 motion does not indicate that his claim of substantial assistance has been investigated by the United States.

In light of the foregoing, the Court hereby ORDERS the government to file a sealed supplement not later than twenty days after the entry of this Order confirming that it has investigated Ivic's allegations of substantial assistance and explaining whether it intends to file a motion for a reduction in Ivic's sentence for substantial assistance.

ORDERED this 5th day of February, 2009.


HAYDEN HEAD
CHIEF JUDGE